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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

-----  
ESTATE OF ROGER D. :  
OWENSESBY JR., et al., :  
:   
Plaintiffs, : Case No. 01-CV-769  
vs. : (Judge S. A. Spiegel)  
:   
CITY OF CINCINNATI, : VOLUME II  
et al., :  
:   
Defendants. :  
-----

Continued videotaped deposition of DAVID  
WILLIAM HUNTER JR., a witness herein, called by the  
plaintiffs for cross-examination, pursuant to the  
Federal Rules of Civil Procedure, taken before me,  
Wendy Davies Welsh, a Registered Diplomate Reporter  
and Notary Public in and for the State of Ohio, at  
the offices of Helmer, Martins & Morgan Co. LPA,  
1900 Fourth & Walnut Centre, 105 East Fourth Street,  
Cincinnati, Ohio, on Thursday, December 4, 2003, at  
10:11 a.m.

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		Page 108	Page 110
1	APPEARANCES:		
2	On behalf of the Plaintiffs:		
3	Paul B. Martins, Esq. Don Stiens, Esq. Helmer, Martins & Morgan Co., L.P.A. Suite 1900, Fourth & Walnut Centre 105 East Fourth Street Cincinnati, Ohio 45202 Phone: (513) 421-2400		1 Federal Rules of Civil Procedure, may be taken at 2 this time by the notary; that said deposition may be 3 reduced to writing in stenotype by the notary, whose 4 notes may then be transcribed out of the presence of 5 the witness; and that proof of the official 6 character and qualifications of the notary is 7 expressly waived.
8	John J. Helbling, Esq. The Helbling Law Firm, L.L.C. 3672 Springdale Road Cincinnati, Ohio 45251 Phone: (513) 923-9740		8 I N D E X
9	On behalf of the Defendants City of Golf Manor, Stephen Tilley, Roby Heiland and Chris Campbell:		9 Examination by: Page
10	Wilson G. Weisenfelder Jr., Esq. Rendigs, Fry, Kiely & Dennis 900 Fourth & Vine Tower One West Fourth Street Cincinnati, Ohio 45202-3688 Phone: (513) 381-9200		10 Mr. Martins . . . . . 111, 277
11	On behalf of the Defendants City of Cincinnati, Darren Sellers, and Jason Hodge:		11 Mr. Hardin. . . . . 258
12	Gerri Hernandez Geiler, Esq. Assistant City Solicitor Department of Law Room 214, City Hall 801 Plum Street Cincinnati, Ohio 45202 Phone: (513) 352-3346		12 - - -
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1 Golf Manor officer near, his car was near. Caton  
2 yelled to the Golf Manor officer, "Can we put him in  
3 your car?" And the Golf Manor officer said yes.

4 Caton and Jorg took Mr. Owensby over to  
5 the car, and I was still standing around picking up,  
6 you know, I picked up my Mace, and then checking my  
7 belt to make sure I had everything.

8 And they -- as they took him over to the  
9 car --

10 Q. Let --

11 A. -- I walked over to the -- okay. Go  
12 ahead.

13 Q. Now let -- let me stop you. How did they  
14 pick up Mr. Owensby?

15 A. By the arms.

16 Q. Okay. So he's handcuffed and they -- they  
17 pick him up. Who is on the right side, who's on the  
18 left side, if you know?

19 A. I don't know for sure, but I think Caton,  
20 for the most part, he was on the left side. So I'm  
21 going to assume that he stayed on the left side when  
22 he -- when they picked him up and then Officer Jorg  
23 was on the right. They picked him up and then they  
24 took him to the car.

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1 Q. Did you see -- could you tell whether or  
2 not Mr. Owensby was able to walk to the car?

3 A. Yes, I can tell.

4 Q. And what -- what did you see?

5 A. No.

6 Q. He could not walk?

7 A. No. He -- we -- he --

8 Q. How --

9 A. I don't -- if he could or couldn't, he was  
10 not walking. He did not walk to the car.

11 Q. He was being carried?

12 A. Yes.

13 Q. His -- his feet were dangling?

14 A. Dragging.

15 Q. Okay. And the -- Officer Jorg and Caton  
16 had Mr. Owensby by the arms?

17 A. Yes.

18 Q. Did anyone else assist in taking Mr.  
19 Owensby to the Golf Manor cruiser?

20 A. There might have been another person over  
21 there, but like I said, I didn't actually watch them  
22 place him all the way in the car. So I don't know  
23 if anybody might have got any hands on to help pull  
24 him in or get him situated in the back of that car.

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1 Q. All right. What happens next?

2 A. I was still standing -- I -- I was --  
3 after they get him over to the car, I walked toward  
4 the car. And there was no need for me to be over  
5 there, really, so I walked back over, same thing,  
6 into the area, just looking down on the ground or  
7 whatever, around the area where this just happened.

8 And I looked up and I looked across over  
9 toward the Golf Manor police car and I saw the back  
10 door open and I saw Officer Caton swinging.

11 Q. Now, what side of the Golf Manor car was  
12 Officer Caton on?

13 A. Oh. The -- oh, God. I -- whichever side  
14 Mr. Owensby's head was at, because that's the  
15 side -- that -- the back door. He was at -- he was  
16 standing at the back door where --

17 Because they had Mr. Owensby laying across  
18 the back seat. And the side where his head was  
19 nearest to the door, that door was open and that's  
20 the door -- that's where Officer Caton was standing.

21 Q. Was the other door open?

22 A. No.

23 Q. Do you know if the car was in -- from  
24 where you were and where Officer Caton was, was the

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1 car between you two? In other words, were you  
2 looking toward Officer Caton's face or were you  
3 looking toward his back?

4 A. Hmm. Hmm. Right this minute I can't say  
5 for -- for sure, but I do know that from where I was  
6 standing, what I saw was the door was open and I can  
7 see Caton making swinging motions. But the door was  
8 between my vision and Mr. Owensby, so I could not  
9 see him making contact, but I can see him swinging.

10 Q. When you say he was swinging, would you  
11 either demonstrate or describe for me what you saw.

12 A. Him -- I'll demonstrate.

13 Q. Okay.

14 A. He was leaning in the doorway. He was  
15 between the door and the inside of the car. He was  
16 leaning in, and I could see him drawing back and  
17 coming down, drawing back, coming down, throwing  
18 either punches or open hand, I can't say, but he was  
19 throwing blows. He was delivering blows. And  
20 Mr. -- and the only thing he -- he could either -- he  
21 could have been punching Mr. Owensby or he could  
22 have been punching the back seat.

23 Q. And do you know how many blows Officer  
24 Caton administered?